

**Federal Defenders
OF NEW YORK, INC.**

Southern District
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David E. Patton
Executive Director

Southern District of New York
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Attorney-in-Charge

October 4, 2023

BY ECF

The Honorable John G. Koeltl
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

RE: United States v. Burgos-Hernandez et al.
22 Cr. 133 (JGK)

Dear Judge Koeltl:

I write on behalf of Franklin Bello Jimenez in the above-captioned case. Mr. Bello was sentenced by the Court on July 19, 2023 and is scheduled to begin serving his 15 month prison term by surrendering to the MDC Brooklyn on October 20, 2023.

With no objection from the government or pretrial services, I respectfully request that the Court (1) postpone Mr. Bello's surrender date to January 19, 2024 and (2) recommend to the Bureau of Prisons that it consider re-designating Mr. Bello to FCI Fort Dix or another nearby facility.

With respect to Mr. Bello's surrender date, I respectfully request the Court extend this date by three months. In July 2023, Mr. Bello was injured in a car accident. As a result of the accident, on September 13, 2023, Mr. Bello had surgery on his knee. Since then, he has received physical therapy three to four times a week and has been walking with the assistance of a cane. Once his knee properly heals, he will require surgery on his right shoulder and an epidural injection in his lower back. *See* Ex. A. Given the conditions of confinement at the MDC, there is good reason to believe the facility will not properly attend to Mr. Bello's medical needs. *See* Ex. B (describing the "unsafe" and "inhumane" conditions at the MDC resulting from being "severely understaffed"); Ex. C ("Such conditions are abusive and inhumane as inmates often receive meals untimely, have no access to hygiene products [] or the ability to shower, and lack access to adequate medical care."). Accordingly, I respectfully request that the Court schedule Mr. Bello's voluntary surrender for January 19, 2024.

For the past 19 months, Mr. Bello has remained compliant with the conditions of release, including attending his sentencing hearing on July 19, 2023. The Court has previously granted

Mr. Bello a temporary bail modification to travel to visit his mother on August 14, 2022, October 15, 2022, and September 23, to spend the holidays with family in Boston, MA, and to travel to the Dominican Republic on March 15, 2023 to attend his father's wake and burial. Mr. Bello will certainly voluntarily surrender as directed by the Court.

With respect to Mr. Bello's designation, I respectfully request that the Court recommend that the Bureau of Prisons re-designate Mr. Bello to serve his sentence at FCI Fort Dix or another nearby facility. While the MDC Brooklyn is close to Mr. Bello's family, the conditions of confinement at the facility are, as described above, inhumane. In addition, the MDC is a pretrial detention center; it is not intended to house individuals long term and therefore lacks the programs and rehabilitative offerings of other facilities. While the BOP is free to disregard the Court's recommendation, we have found that such recommendations for re-designation have been effective.

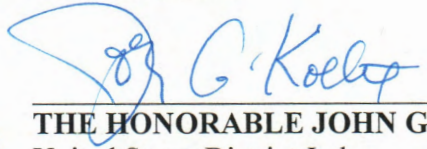
Thank you for your consideration of this request.

Respectfully submitted,

/s/

Marne L. Lenox
Assistant Federal Defender
(212) 417-8721

SO ORDERED:

10/5/23 
THE HONORABLE JOHN G. KOELTL
United States District Judge

cc: Sarah Kushner, Assistant U.S. Attorney

EXHIBIT A

Blessed Hands Chiropractic PC

1500 Astor Avenue

Bronx, NY 10469

Phone: 347-202-8925

Email: blessedhandschiro1500@gmail.com

Patient Name : BELLO-JIMENEZ FRANKLIN

D.O.A: 07/05/2023

To whom this may concern:

This letter is to verify that the above-named patient is under the care of Blessed Hands Chiropractic PC for injuries sustained in a motor vehicle accident, which occurred on 07/05/2023. The patient was seen today 10/02/2023 by Dr. Michael Jeanniton DC. The patient had right knee surgery on 09/13/2023, once he is cleared he will have surgery on the right shoulder and epidural injection in the lower back.

The patient is recommended to have Chiropractic treatment and Physical therapy 3-4 times per week that includes chiropractic adjustments, hot pack and cold pack, electrical stimulation, stretching and strengthening exercise. If there are any questions about services rendered, please do not hesitate to call the number provided above or email.

Thank you.

Dr. Michael Jeanniton DC

License number: X11580

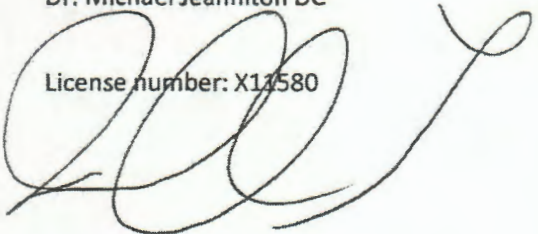
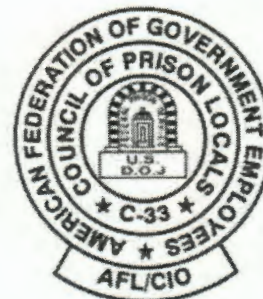


EXHIBIT B



AFGE Local 2005
Council of Prison Locals #33, AFL-CIO
100 29th Street
Brooklyn, New York 11232



DATE: June 23, 2023

MEMORANDUM FOR: AMY BONCHER, REGIONAL DIRECTOR

FROM: Rhonda Barnwell, President, AFGE Local 2005 President/ **Rhonda Barnwell**

SUBJECT: Unsafe Working Conditions

The Local has tried diligently to resolve this issue at the local level numerous times and have been unsuccessful at every attempt. Though this is an ongoing issue at multiple Bureau of Prisons Institutions, it creates a higher risk for staff and inmates alike within a high rise/Detention Center setting. As you are aware MDC Brooklyn maintains various levels of inmate offenders, all while continuously receiving large volumes of in-transit inmates and new commits daily, as well as court appearances and Escorted Hospital trips. The demands of a high transit Institution with little to no staff is a violation of Article 27 of the Master Agreement.

For a multitude of reasons, MDC Brooklyn is and has been severely understaffed for years. The current turnover rate for incoming/new Officers is over 50%, and will continue to decline if the Northeast Region and or the Director continues to turn a blind eye to what is actually happening in New York City, as we can not compete with the pay band of other agencies within the Tri-state area.

On a daily basis housing units at MDC Brooklyn are left vacated (unmanned by staff) and locked down, with the expectation of Management that a single (One) Officer is to make rounds, feed, and perform additional correctional duties on the vacated units. Additionally, visiting room staff are required to perform the duties of additional officers because the agency refuses to cease legal and social visits when there are no staff. The Local is trying to prevent loss of life and or serious physical harm to staff. Let I remind you of the serious staff assault that took place here at MDC Brooklyn around February 2022, in which Officer A. Flores was physically assaulted by an inmate, who punched him in the mouth

and attempted to drag him down the housing unit stairs via his stab proof vest. As a result of the assault, Mr. Flores had to have jaw reconstruction surgery and eventually quit the BOP because of the safety concerns and him not feeling supported by the Agency.

During previous LMR Meetings, institution management was made aware of the Local's concerns regarding this change in the employees' working conditions, to which Management's stated "staff would not be held accountable if there was an assault and or loss of life during these times". This is unacceptable as Management at the local level are aware of the potential hazards associated with requiring one officer to maintain 3 housing units in a single shift, all while being mandated with little to no sleep. This is a violation of the Collective Bargaining Agreement and Program Statement 3000.03. Do you consider this a safe practice? Would you want to work under these conditions?

The Agency's actions are inhumane to both staff and inmates, as the institution remains locked down on several occasions, which angers the inmates and heightens the inherent danger for staff. Coverage is so minimal that at times there are only 6 staff members available to respond to body alarms, staff assists, and or inmate medical emergencies. This is especially true on weekends and holidays and there is no longer any TDY staff to assist with this burden.

In accordance with Article 27 of the Master Agreement; the Employer agrees to lower those inherent hazards to the lowest possible level; the employer also agrees to furnish employee's places and conditions of employment that are free from recognized hazards that are causing or are likely to cause death or serious physical harm. For the past two years Management at the local level has refused to utilize proposals and Memorandums from the Local Union, hence relying solely on mandatory overtime, volunteer overtime, and augmentation to manage more than half of the correctional services roster.

The agency as a whole has failed to assist MDC Brooklyn with the staffing crisis, hence allowing MDC Brooklyn to fail. What are you waiting for, another loss of inmate life? Your indifference and continued failure to act, will bring the Federal Bureau of Prisons more negative notoriety.

In an effort to make you more aware of these inadequacies, I have attached copies of MDC Brooklyn's Correctional Services Roster.

The local union is requesting that the agency cease and desist with forcing staff members to work more than one post in a single shift. The Local is also requesting that the Agency adhere to Article 6 (b2), Article 18 (r,s), and Article 27 of the Master Agreement and provide a safe environment for all staff.

The Local Union is requesting that we meet in person to discuss these pressing concerns and devise corrective actions.

The parties devote up to 2(two) days for your written response before this situation is escalated to a third party to include the media, and the inmate advocates.

R.Barnwell, /**R.BARNWELL**

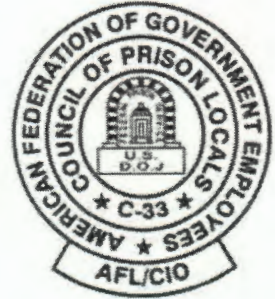
President, AFGE

Local 2005, CPL33

EXHIBIT C



AFGE Local 2005
Council of Prison Locals #33, AFL-CIO
100 29th Street 2nd Floor
Brooklyn, New York 11232



DATE: September 17th 2022

TO: Richard A. Tietjen, Special Agent Office of Internal Affairs

FROM: Rhonda Barnwell, Local 2005, President

SUBJECT: Hazardous Conditions (MDC Brooklyn)

My name is Rhonda Barnwell, I am the President of Local 2005 AFGE, at MDC Brooklyn.

This email is being sent due to the ongoing events taking place at MDC Brooklyn. I have tried diligently to resolve these issues at the local level and have been unsuccessful every time. An E-mail was sent to the Director of The Federal Bureau of Prisons on 9-9-2022 expressing the below concerns, to which Executive Management has yet to respond.

“For a multitude of reasons, MDC Brooklyn is and has been severely understaffed. The current turnover rate for incoming/new officers is over 50%, and will continue to decline if the North East Region and or the Director of The Federal Bureau of Prisons continues to turn a blind eye to what is happening at MDC Brooklyn.

To date, Executive Management in your respective areas have contributed to the decline of MDC Brooklyn. And your continued disdain for the staff at MDC Brooklyn is placing our staff and inmates at risk. Because of the North East regions refusal to approve TDY staff, and our own shortage of staff; housing units are left vacated (unmanned) at times for an entire shift. On the weekends/holidays the roster will reflect one officer supervising 3 housing units alone, and yet the Agency refuses to provide any tangible relief. This is a safety concern for all staff and inmates, and could potentially result in a loss of life.

Forcing employees to work overtime in excess of 32-40 additional hours a week is unfair, and is a safety concern for all to include the communities they drive through every day. If a staff member or inmate loses their life due to the negligence of the Agency, the Agency will be held responsible.

In an effort to bargain in good faith, both Management and the Union discussed using TDY staff and paying Non-Bargaining staff overtime wages to assist the Correctional Services Department. To date the region has refused both options.

Currently, the agency is allowing over 30 Correctional Officers to attend Annual Refresher Training weekly. How are we conducting ART with this many Officers when our Correctional Roster is already depleted on a daily basis? On 9-09-2022 there were multiple housing units left unsupervised, there were inmates on Suicide Watch, with no Officer assigned, instead West Internal was instructed to make hourly rounds on a SUICIDAL inmate; who actually attempted suicide on 9/08/2022. This is unacceptable, and will bring the Bureau as a whole more unnecessary notoriety."

Since roughly 6/1/2022 and continuing North East Regional Management and Executive Management at MDC Brooklyn have failed to adequately staff MDC Brooklyn. This has caused employees to work in harsh and hazardous conditions. Executive Management has failed to approve any and all request for staff assist via TDY Staff, yet he Northeast Region approved sending a TDY GS15 Warden and TDY Facilities staff to come to MDC Brooklyn, all while paying for their travel to include per-diem, and daily housing cost. This is a travesty.

On a daily basis housing units are left vacated, and inmates are left to their own devices, which plays a big role in the introduction of contraband. On any given day there are between 25-40 holes in the correctional services roster. Such conditions are abusive and inhumane as inmates often receive meals untimely, have no access to hygiene products and or the ability to shower; and lack access to adequate medical care.

Despite the normal daily holes on the Correctional Services Roster, Management unilaterally decided to send between 20-40 Correctional Officers to Annual Training weekly. Thus, contributing to the already strained correctional services roster. There has been long-term failures from the administration that if not corrected will likely contribute to loss of life for both staff and inmates. Thus far regional management continues to jeopardize the health and safety of staff and inmates; and undermines public safety and inmates' constitutional rights in the State of New York. For many years, the facility has been extremely dangerous and unsecure, and Executive Management in the Northeast Region has lacked regard for human life. There are vast quantities of contraband, including weapons and narcotics and cell phones flowing through the facility, as investigations at the local level are at a standstill due to the Region's refusal to assist with providing Special Investigative Agents.

Proper Escort procedures for scheduled and emergency inmate medical trips are ignored and not adhered to. At times inmates are sent on escorted trips with only one staff member, when the policy (Escort Procedures) requires two, doing such, places staff, inmates and the public at risk of immediate serious injury or death. In accordance with Program Statement 5538.07 Escorted Procedures, A minimum of two staff escorts is required for the first inmate, with one additional staff member required for each additional inmate. To date this has been violated.

MDC Brooklyn presents significant security concerns for the Northeast Region. Both national and local policies are being violated on a regular basis and due to the derelict of duties from the Northeast Regional Office, at the local level, management continuously makes egregious decisions that affect the safety and security of the institution.

Be advised that at any point or time, I am willing to testify or provide any pertinent written documentation to prove the evidence of wrongful doing at MDC Brooklyn, by Management.

As the Local we are coming to you for relief, as the agency's refusal to intervene will eventually lead to loss of life.

Respectfully,
Rhonda Barnwell
Local 2005 President
MDC Brooklyn AFGE
917-474-6794 (cell)
718-840-4200 Ext 5229 (Union Office)

Cc: Jerrold Nadler, United States Representative
Nydia Velazquez, United States Representative
Brendan Boyle, United States Representative
Nicole Malliotakis, United States Representative